Appendix XVI.

[Vide answer to question No. 1381 asked by Mr. J. A. Saldanha at the meeting of the Legislative Council held on 1st February 1929, page 592 supra.]

Extract of G.O. No. 865, Public, dated 7th October 1928.

Order.—All Members of the Committee may draw travelling and daily allowances under the rules applicable to them as Members of the Madras Legislative Council attending its meetings.

(By order of the Governor in Council)

H. G. Stokes,
Chief Secretary.

Appendix XVII.

[Vide answer to question No. 1387 asked by Mr. D. Narayana Raju at the meeting of the Legislative Council held on 1st February 1929, page 594 supra.]

Proceedings of the Board of Revenue, Land Revenue and Settlement, Mis. No. 2551, *dated the* 10*th September* 1927.

[*Subject*—Acts and Bills—Village Panchayat Courts—Execution of decrees—Amendment of Act or Rules—Necessity—Collector's remarks submitted with Board's remarks.]

Submitted to Government with reference to their Memorandum No. 705/B-2, dated 6th May 1927.

2. The Board considers that no case has been made out for any modification of the Village Courts Act or the rules made thereunder except perhaps in respect of the custody of attached property and submits the following remarks on the several difficulties raised by M.R.Ry. Narayana Raju, M.L.C., in the matter of the execution of decrees by the presidents of the panchayat courts:—

Delicacy of the position of the president.—Panchayatdars are elected by adult males who are residents of the village (rule 8) and they elect one among themselves as the president of the panchayat court [section 9 (5)]. The villagers know that such courts are constituted to enable them to get a prompt remedy in suits for recovery of money at considerably less expense than would be necessary in the civil courts. There is thus no reason why the president of a panchayat court should feel it a delicate matter to discharge his duty in the execution of the court's decrees. The Board has no sympathy with the attitude which demands the honour of the post without its responsibilities and endeavours to foist all possibly unpopular duties on to other shoulders.

Staff.—Section 11 lays down that it shall be the duty of the village servant usually employed in carrying messages to act under the orders of the village munsif (which term includes the president of the panchayat court—section 5) in seizing, selling and delivering movable properties attached under the Act. It is possible that this leads to friction between the village munsif and the president in the utilization of the services of the village servants. The former may quite legitimately require them for revenue duties particularly in the kist seasons. It is clear that the arrangement is not permanently satisfactory, but at present there is no justification for a separate menial

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staff for the panchayat courts. Such a staff must, however, come in the end if and when the movement develops. The existing inconvenience such as it is, is not sufficient reason for transferring of the execution work from the president of the panchayat court to the village headman. If the village servant does not attend to this statutory duty or if the headman is obstructive disciplinary action may be taken against them by the Revenue officers.

3. *Storage of attached property.*—Under section 53 of the Village Courts Act, the president (which term is included in the expression village munsif—section 5) is *bound to provide for the* custody of movable property attached. It is only in a small percentage of the suits filed in panchayat courts that the amounts decreed will have to be realized by execution. As the panchayat court can try suits the money value of which does not exceed Rs. 50 or Rs. 200 in cases in which both parties consent (such cases are very rare) the movables attached in execution will not be numerous. They may as a rule be left in the custody of the judgment-debtor himself on his furnishing adequate security for their production when required—section 53. In certain cases they may be sold soon after attachment—section 58—Proviso. If either of these courses is not feasible, the properties may be left in the custody of the village headman if the president so desires. A rule may be made to this effect. The expense of keeping such property in custody is one of the items in the costs of execution which constitutes a first charge on the money realized in execution—section 63.

Attendance of the president in civil and criminal courts—Prosecution in cases of obstruction and revision petitions to District Munsifs' Courts.—The difficulties in this case are fanciful. The complaint, if any, would be filed by the village servant against the persons who obstructed him in the discharge of his duty. A revision petition would be filed by the party aggrieved against the counter party. In neither case would it be necessary for the president to attend the courts unless he were summoned as a witness. This would not therefore entail much inconvenience to the president.

3. Copies of the replies of Collectors consulted by Government are herewith submitted :—

Letter from A. R. Cox, Esq., I.C.S., Collector of Coimbatore, L. Dis. No. 5048/27 A-3, dated 16th May 1927.

[Government Memorandum No. 705/B-2, dated 6th May 1927.]

I have received no complaint from any of the presidents of panchayat courts about any difficulties in the execution of decrees.

2. In my opinion, the existing provisions of the Act and the rules framed thereunder are not defective.

Letter from A. R. C. Westlake, Esq., I.C.S., Collector of Kistna, L. Dis. No. 3739/27, dated 14th June 1927.

[*Reference.*—Government Memorandum No. 705/B-2, dated 6th May 1927.]

No complaints have been received from presidents of panchayat courts about their difficulties in the execution of decrees passed by panchayat

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courts. I think that the existing provisions of the Act and the rules framed thereunder in the matter of execution of decrees of panchayat courts are adequate.

Letter from M.R.Ry. Rai Bahadur U. RAMA RAO Avargal, B.A., Collector of Kurnool, No. L. 1404/27, dated the 18th June 1927.

[*Reference.*—Government Memorandum No. 705/B-2, dated th May 1927.]

The president of only one panchayat court in this district complained that the village servants did not promptly assist him in the execution of decrees and the village servants were suitably punished.

2. In my opinion the existing provisions of the Act and the rules framed thereunder bearing on the subject are not defective and no modifications seem called for. Under section 11 of the Madras Village Courts Act, it is the duty of village servants to assist the president of the panchayat court in the execution of decrees. Even if the work were transferred to the village magistrate he has to depend upon the village servants for its execution. As regards the other grounds of objection, if the burden of enforcing the execution of decrees is shifted to the shoulders of the village magistrate, the latter is in an equally unpleasant situation of becoming unpopular, whereas if the president is just and impartial there would be no justifiable ground for any ill-feeling against him in his capacity as president. The alleged inconvenience caused by a president having to attend magistrates' or district munsifs' courts in cases of obstruction to the execution of his decrees does not seem to be serious so far as this district at any rate is concerned as there have hardly been any cases of obstruction during the past three years. In regard to the custody of the distrained property, it may be made over to the village magistrate after obtaining acknowledgment from him as is being done in the case of similar property seized by various departments of Government.

3. There seems to be therefore no particular reason why the president should be relieved of the responsibility and the village magistrate burdened with it.

Letter from R. H. ELLIS, Esq., I.C.S., Collector of Madura, L. Dis. No. 4781/27, dated the 18th June 1927.

[Government Memorandum No. 705-B/2, dated 6th May 1927.]

No complaints have been received from presidents of panchayat courts about difficulties in the execution of decrees. The provisions of the Act and the rules framed thereunder bearing on the subject are not defective. I do not consider that it is necessary to amend them in the direction proposed.

Letter from H. S. SHIELD, Esq., M.A., I.C.S., Collector of Tanjore, D. Dis. No. 6217/27-B., dated 22nd June 1927.

[Government Memorandum No. 705-B-2, dated 6th May 1927.]

Complaints from the presidents of panchayat courts in this district about the difficulties in the execution of decrees have been rare. The Revenue Divisional Officers of Tanjore, Negapatam and Pattukkottai state that there

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are no defects in the existing provisions and no remedy is called for. The Revenue Divisional Officer, Pattukkottai, suggests that in cases of difficulty section 66 of the Act provides necessary relief by enabling the courts to send their decrees to the District Munsifs having jurisdiction for execution. The Revenue Divisional Officer, Negapatam, states that elected functionaries should be made to realize that their duties are not always pleasant ones and that they should not hesitate to take coercive steps in the matter of execution.

2 The Revenue Divisional Officer, Mannargudi, reports that one of the presidents represented before the Tahsildar that the execution of the decrees could not be attended to by him only for want of men.

3. The Revenue Divisional Officer, Kumbakonam, anticipates some difficulty in securing in time, the help of the village menial, who is under the direct control of the village headman. These two Revenue Divisional Officers suggest that the Act may be so amended as to make the village headman responsible to execute all orders.

4. The only difficulty that can possibly be anticipated is that the president of the panchayat court may not be able to get the services of the village menials promptly as they are not under the direct control of the Presidents.

5. This can be got over by giving exemplary punishments in one or two cases of wilful neglect on the part of the village headman to depute menials and culpable delay on the part of the menials to attend to the directions of the Presidents, Village Panchayat Courts.

6. I am therefore of opinion that the existing provisions of the Act and the rules framed thereunder are not defective and that no remedy is called for.

Letter from H. R. PATE, Esq., I.C.S., Collector of Malabar, Calicut, D. Dis. No. 4834/27, dated the 2nd July 1927.

[Government Memorandum No. 705 B-2, Law (General), dated 6th May 1927.]

I received a complaint from the president of the Panchayat Court at Nethirimangalam, Walluvanad taluk in January 1926, that he experienced certain difficulties in the matter of executing decrees of panchayat courts and I recommended to Government in my Ref. No. C. 2–293/26, dated 3rd February 1926 that the rule should be so amended as to permit the execution of decrees by any member of the panchayat appointed by the president in that behalf. The Government ruled, in their Order No. 658, Law (General), dated 1st March 1926, that under section 11 of the Madras Village Courts Act orders in execution might be executed by the agency of village servants acting under the orders of the president of a panchayat court. It does not appear to me however that that section really solves the difficulty, since, apart from the service of summonses, etc., the only specific powers conferred on the village servants by that section are to "act under the orders of the village munsif in seizing, selling and delivering movable properties attached under this Act." No power to attach is given

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(i) There appears to me to be some force in the first objection raised by Mr. Narayana Raju, M.L.C., that the president as an elected honorary functionary is "in a delicate situation to take coercive steps such as attachment, sale of properties." Further there is some impropriety in the president both signing an order for execution and executing it.

(ii) The second disadvantage pointed out by Mr. Narayana Raju is that the president has no staff and no village office to keep the attached property in safe custody. Difficulties on this account are as a matter of fact likely to be experienced by a president who does not happen to be the adhikari. As an elected honorary functionary, it does not seem desirable to require the president to provide accommodation for all attached properties.

(iii) The third objection, relating to the obstruction of execution and its consequences, is not, in my opinion, serious. It would seldom be necessary, in the rare event of such obstruction being offered, for the president himself to appear as a witness in the court; the village servant would normally file the complaint. In cases of revision petitions in the courts of District Munsifs against orders passed by the president, only the records are generally called for and it is only in very rare cases that the presence of the president in court is found necessary.

2. For the reasons which I have given, I recommend that rule 53 (*b*) of the rules framed under the Act should be so amended as to permit the execution of decrees by either, any member of the panchayat court (as recommended in my letter No. Ref. C. 2. 293/26 dated 3rd February 1926) or, as an alternative by the village munsif.

Letter from A. M. A. C. GALLETTI, Esq., I.C.S., Collector of Ganjam, No. L. Dis. 2910/27, dated 3rd July 1927.

[Government Memorandum No. 705 B-2, dated 6th May 1927.]

I have not received any complaints from presidents of Panchayat Courts in this district in the matter of execution of decrees. I do not think that any change in the rules will remove difficulties which are personal.

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APPENDIX XVIII.

[Vide answer to question No. 1399 asked by Mr. C. Ramasomayajulu at the meeting of the Legislative Council held on 1st February 1929, page 599 supra.]

Letter from the Director of Industries, No. 843-C/28, dated 10th January 1929.

I have the honour to state that the majority of the industrial concerns in Ganjam and Vizagapatam districts being rice mills and groundnut factories there appears to be very little scope for the establishment in those districts of schools of the Trades School type which presuppose the existence of a number of industrial concerns in close proximity to one another from which the apprentices could be drawn for theoretical instruction in the continuation classes. I have consulted a few of the more important concerns and the